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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,108	06/20/2001	Francois Court	33808F151	3475

7590 06/16/2003

SMITH, GAMBRELL & RUSSELL, LLP  
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Washington, DC 20036

EXAMINER

MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 06/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/884,108

Applicant(s)

COURT ET AL.

Examiner

Jeffrey C. Mullis

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): see attachment.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 26.Claim(s) objected to: none.Claim(s) rejected: 1-3, 5-16, 18-20 and 22-25.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Jeffrey C. Mullis  
J Mullis  
Art Unit: 1711

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ATTACHMENT TO ADVISORY ACTION

Applicants' arguments filed 5-27-03 have been fully considered but they are not deemed to be persuasive.

The rejection under 35 U.S.C. § 112 second paragraph is hereby expressly withdrawn.

All rejections of claim 26 are hereby withdrawn and claim 26 is now allowable.

It is noted that all rejections relying upon DE 4240445 were withdrawn in the previous Office action. Therefore the only rejections remaining are the rejections under 35 U.S.C. § 102(b) of claims 1-3, 5-16, 18, 19 and 22-25 as being anticipated by Gottschalk et al. (Macromol. Symp. 83, 127-146 1994) and the rejection under 35 U.S.C. § 102(b) of claims 1-3, 5-16, 18-20, 22-25 of Mehler (Kunststoffe, 88, 1872, 1874, and 1876).

With regard to Gottschalk, applicants argue that Gottschalk does not teach the use of applicants' specific polystyrene polymers. However with regard to Gottschalk, note the Abstract thereof which discloses "blends of PPE with SAN, as well as with ABS" and that "the interfacial tension between the blend components is significantly reduced upon addition of . . . triblock copolymers (PS-b-PEB-b-PMMA)". It is noted that ABS is embraced by the acrylonitrile butadiene styrene polymers of the instant claims.

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With regard to Mehler, note the CAPLUS Abstract which discloses that "(F)or a tech. prodn. of the SBM-modified polymeric blends, pure PPE was replaced with a mixture of 70% PPE and 30% of toughened polystyrene". Note that Mehler teaches a blend of polyphenylene ether and styrene acrylonitrile and therefore Mehler meets all the limitations of the claims given that toughened polystyrene is embraced by applicants' high impact polystyrene polymers. While it is true that SAN alone does not meet the limitations of the claims, the toughened polystyrene of Mehler does meet the limitations of the claims and therefore the reference anticipates the claims. The word "comprising" does not exclude the claim elements not explicitly recited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (703) 308-2820. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group is before final (703) 872-9310 and after final (703) 8729311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

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J. Mullis:cdc

June 13, 2003

Jerry Mullis  
Primary Examiner  
Art Unit 1711

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Primary Examiner  
Art Unit 1711

